

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 15, 2001 at 9:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Roy Brown (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Dennis Himmelberger (R)  
Rep. Carol C. Juneau (D)  
Rep. Jim Keane (D)  
Rep. Rick Laible (R)  
Rep. Bob Lawson (R)  
Rep. John Musgrove (D)  
Rep. William Price (R)  
Rep. Allen Rome (R)  
Rep. Donald Steinbeisser (R)  
Rep. James Whitaker (R)

**Members Excused:** Rep. Rod Bitney, Vice Chairman (R)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Brett Tramelli (D)

**Members Absent:** None.

**Staff Present:** Gordon Higgins, Legislative Branch  
Jane Nofsinger, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB145, HB158, HB194, HB218,  
1/15/2001  
Executive Action: HB73, HB177, HB194

HEARING ON HB145

{Tape : 1; Side : A; Approx. Time Counter : 4.3}

Sponsor: REP. RICK DALE, HD39, Whitehall

Proponents: Eric Fehlig , attorney, Department of Commerce  
Dave Galt, Director, Montana Department of  
Transportation  
Glenn Wheeler, Montana Power Company  
Bob Livesay, Montana Lines  
John Fitzpatrick, Touch America  
Keith Allen, IBEW233

Opponents: None

Opening Statement by Sponsor:

REP. DALE, HD39, Whitehall, presented this bill on behalf of the Department of Commerce. The bill will revise parts of the electrical code to make it comply with rulings and to define jurisdiction. In some cases inspection is done by a federal agency and it is not a good use of resources to have the Department of Commerce also make these inspections he said. The bill furthermore clarifies, streamlines and makes corrections to the code REP. DALE said.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 6.8}

Mr. Fehlig called this a housekeeping bill. He said mines under certain conditions are subject to federal regulations and the Department of Commerce was asking this exemption from the state electrical code. **EXHIBIT**(buh11a01)

Mr. Galt said he had a problem with the clarity of the bill concerning traffic control devices and he presented an amendment. **EXHIBIT**(buh11a02)

Mr. Wheeler and Mr. Livesay said they had previously had concerns but they could support the bill with the amendment.

Mr. Fitzpatrick said the bill did not cover the status of fiber optic cable which was not the same as electricity, instead it was a beam of light. He said he could support the bill if the bill exempts fiber optic cable from the building code.

Mr. Allen said his concerns were also alleviated by the amendment. **EXHIBIT**(buh11a03)

Opponents' Testimony: None

Questions from Committee Members and Responses:

*{Tape : 1; Side : A; Approx. Time Counter : 19}*

REP. GALLIK asked Mr. Fehlig if the amendment caused any problem. Mr. Fehlig replied there was no problem because there was only one national code.

REP. LAWSON asked REP. DALE if the other amendment would cause any problem. REP. DALE said it would not.

Closing by Sponsor:

REP. DALE said the bill will make the law easier and less expensive to administer. He said he appreciated the people who had explained the bill and asked the committee to pass it.

HEARING ON HEARING ON HB158

*{Tape : 1; Side : A; Approx. Time Counter : 21.9}*

Sponsor: REP. CHRISTOPHER HARRIS, HD30, Bozeman

Proponents: Jack Gunderson, self  
John Taggart, self  
Patti Keebler, MT AFL-CIO  
Ronna Christman, Montana Petroleum Marketers Assn.  
Steve Hanson, City Service, petroleum distributor

Opponents: None

Opening Statement by Sponsor:

REP. CHRISTOPHER HARRIS, HD30, Bozeman, said the bill would create a commission which would investigate gasoline pricing competition in Montana. The bill proposes a five member commission which would be charged with determining if gasoline was a competitively-priced product in Montana and if it was not, the commission would try to determine why it was not. He said the commission carried a small fiscal note of \$7500. He said neither the Departments of Commerce or Justice wished to oversee the

commission. The commission's only authority was to report to the legislature and they had no other authority to seek information.

**Proponents' Testimony:**

**Mr. Gunderson** said gas had such an economic impact that it would be well-justified to spend \$50,000 on a study of this nature.

***{Tape : 1; Side : B; Approx. Time Counter : 0}***

**Mr. Taggart** said he had been in the gas business for 24 years and to him it was obvious that no longer was there competitive gas pricing. He said the consumer is getting a raw deal. He noted gas transported to Spokane through pipeline from Billings' refineries sells for less than in Montana. He said a small number of refineries have been allowed to consolidate and there are no alternate suppliers and no unbranded suppliers.

**Ms. Keebler** said she supports the bill because many workers need to travel long distances and high gas prices are a hardship.

**EXHIBIT (buh11a04)**

***{Tape : 1; Side : B; Approx. Time Counter : 8}***

**Ms. Christman** said she supported the bill from the standpoint that a formal inquiry could prove there was no big mystery and the gas business was not a conspiracy. She did have reservations that it might require a larger appropriation than stated. She said the bottom line in gas pricing is that stations which price higher, lose market share. She pointed out gasoline pricing is an emotional issue which involves both need and want. She said there are no other comparable products which feature their prices in foot high letters along the busiest highways.

***{Tape : 1; Side : B; Approx. Time Counter : 16.8}***

**Mr. Hanson** said he is a petroleum distributor who supplies 125 convenience stores. He called himself a proponent with reservations. He drew attention to the existence of hypermarketers such as Walmart, Costco and Albertson's. He said individual stations did not have the ability to compete with them. He noted five gas stations closed in the Flathead Valley in the past six months because they could not compete.

**Opponents' Testimony:** None

**Informational Testimony:**

**Ms. Annie Bartos, Department of Commerce.** presented written testimony comparing state gas prices. **EXHIBIT(buh11a05)** She also recommended the commission be established as a legislative study commission instead of moving it between departments.

**Ms. Pam Bucy , Department of Justice** said she supported the bill but was not sure her department was the correct one to oversee the commission. She said New Mexico had a similar commission and the cost was \$400,000. She also recommended an interim study commission.

**Questions from Committee Members and Responses:**

**REP. MUSGROVE** asked **Mr. Hanson** what the profit margin on a gallon of gas was. **Mr. Hanson** replied it depended on the city. In Helena and Kalispell he said the profit margin was 2.4 cents a gallon whereas Great Falls had negative margin of 1 ½ cents a gallon. He pointed out that in any Montana city a person could drive 15 minutes and get the cheapest gas.

***{Tape : 2; Side : A; Approx. Time Counter : 0}***

**REP. GALLIK** asked **Ms. Christman** how all the prices get to be the same in the same town. She replied customers were very price aware and the station owners also sent people out to check the prices. She disagreed that prices were always the same in the same town. **REP. GALLIK** asked if she agreed that the quality of gas was higher in Spokane. She said she did not.

**REP. LAIBLE** asked **Mr. Hanson** how the refinery prices were set. **Mr. Hanson** said by law the refineries were required to post a rack price at each terminal. He said this was public information. **REP. LAIBLE** asked if hypermarketers paid the same as wholesalers. **Mr. Hanson** said hypermarketers have the ability to buy directly from producers on thirty day contracts put out on bids. **REP. LAIBLE** asked what taxes were on a gallon of gas. **Mr. Hanson** said 46.15 cents per gallon was the aggregate. **EXHIBIT(buh11a06)**

**REP. PRICE** and **REP. GALLIK** asked some questions about the procedure of setting up such a commission.

***{Tape : 2; Side : A; Approx. Time Counter : 13}***

**Closing by Sponsor:**

**REP. HARRIS** told the committee the purpose of the commission was to look objectively at the entire spectrum of gasoline pricing. He added he expected the costs to run close to the fiscal note.

**HEARING ON HEARING OM HB218**

**Sponsor:** REP. TOM FACEY, HD67, Missoula

**Proponents:** Mary Lou Gilman, MCCHD  
Kathleen Martin, DPHHS

**Opponents:** Jim Melstad, DEQ

**Opening Statement by Sponsor:**

REP. TOM FACEY, HD67, Missoula, said he had found out about the need for HB218 while he was campaigning door-to-door this year. He said the problem is that the state does not have requirements for licensing potable water haulers. He presented written testimony from the Department of Agriculture and a Missoula County Commissioner. **EXHIBIT (buh11a07) EXHIBIT (buh11a08)**

**Proponents' Testimony:**

**Ms. Gilman** said her role was to help people meet regulatory requirements. She presented written testimony. **EXHIBIT (buh11a09)** She agreed the state needed to establish rules and said during the fire season some people were actually ill and hospitalized after drinking water hauled to them at the fire camps.

**Ms. Martin** said the statute would be administered through her office. She said potable water hauling requirements had been a problem and this bill would provide consistent regulations.

**Opponents' Testimony:** None

**Informational Testimony:**

**Mr. Melstad** said his department supervised public water and he was available if the committee wished him to clarify any issues.

**Questions from Committee Members and Responses:**

REP. GALLIK said he was concerned about who might be affected by the bill. **Mr. Fehlig** said the bill only addressed potable water haulers, not bottlers. He said the bottlers were covered by other regulations.

REP. MCKENNEY asked how and when the inspections would take place. **Mr. Martin** replied it would be similar to the current Department of Environmental Quality rules. The local health

department would inspect the source and the equipment with two inspections annually.

**Closing by Sponsor:**

**REP. FACEY** said in a good business environment the business owner should know what the requirements are and what they are expected to do. This bill would give these guidelines to potable water haulers in Montana.

**HEARING ON HEARING ON HB194**

**Sponsor:** REP. SYLVIA BOOKOUT-REINICKE, HD71, Alberton

**Proponents:** Charles Brooks, Billings Area Chamber of Commerce  
Aidan Myhre, Montana Chamber of Commerce  
Charles Switzer, Kalispell and Bozeman Chambers of Commerce

**Opponents:** Patti Keebler, Montana AFL-CIO

**Opening Statement by Sponsor:**

**REP. BOOKOUT-REINICKE** said this bill had come to her attention through a prior representative, Matt Brainard, who was now on the Public Service Commission. Two workers who were outside salesmen had sued a Montana company for overtime wages and won. This bill would match state law with federal by adding the term "outside sales" to minimum and overtime wage exemptions.

**Proponents' Testimony:**

**Mr. Brooks** said the bill made logical sense to bring the Montana code in compliance with the federal code.

**Ms. Myhre** said she supported any measure which brought clarity and supported business.

**Mr. Switzer** said he supported anything which made it easier to do business.

**Opponents' Testimony:**

**Ms. Keebler** said although she understand the change was to align the state with the federal code, she had to remain in opposition to exempting outside salesmen from state law.

**Questions from Committee Members and Responses:**

REP. LAIBLE asked Mr. Andrew the definition of an outside salesman. Mr. Andrew replied it was outlined in the federal code.

**Closing by Sponsor:**

REP. BOOKOUT-REINICKE called this an economic development bill and presented a recent article from a newspaper.

**EXHIBIT (buh11a10)** She quoted from the article which said Montana had an "employer-unfriendly litigious atmosphere," and that corporate attorneys recommend against having employees in Montana. She urged the committee to vote for the bill.

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**EXECUTIVE ACTION ON HB73**

**{Tape : 2; Side : B; Approx. Time Counter : 7}**

**Motion/Vote:** REP. BROWN moved HB73. Motion carried 18-1 with Gallik voting no.

**EXECUTIVE ACTION ON HB177**

**{Tape : 2; Side : B; Approx. Time Counter : 9}**

**Motion/Vote:** REP. KEANE moved that HB177 DO PASS. Motion carried 17-2 with Brown and Himmelberger voting no.

**EXECUTIVE ACTION ON HB194**

**{Tape : 2; Side : B; Approx. Time Counter : 15}**

**Motion/Vote:** REP. BOOKOUT-REINICKE moved that HB194 DO PASS AS AMENDED. Motion carried 13-6 with Galvin-Halcro, Juneau, Keane, Fritz, Musgrove, and Tramelli voting no.



**ADJOURNMENT**

Adjournment: 11:33 A.M.

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REP. JOE MCKENNEY, Chairman

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JANE NOFSINGER, Secretary

JM/JN

**EXHIBIT** (buh11aad)